

REMARKS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 1-111 are currently pending, with Claims 58-111 being withdrawn as directed to non-elected inventions. Claims 1, 29, 30, and 55-57 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 1-57 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; Claims 1-7, 29-33, and 55-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,999,908 to Abelow (hereinafter “the ‘908 patent”) in view of U.S. Patent No. 6,012,051 to Sammon, Jr. et al. (hereinafter “the ‘051 patent”); Claims 8, 9, 11, 13, 17-24, 34, 35, 37, 39, and 43-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over the ‘908 and ‘051 patents, further in view of U.S. Patent No. 6,578,014 to Murcko, Jr. (hereinafter “the ‘014 patent”); Claims 10, 12, 14, 36, 38, and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over the ‘908, ‘051, and ‘014 patents, further in view of the Palmer reference (“Fancy Labels, Plain Prices”); Claims 15, 16, 41, and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over the ‘908, ‘051, and ‘014 patents, further in view of U.S. Patent No. 6,012,045 to Barzalai (hereinafter “the ‘045 patent”); and Claims 25-28 and 51-54 were rejected under 35 U.S.C. §103(a) as being unpatentable over the ‘908, ‘051, and ‘014 patents, further in view of Anonymous (“Fresh Cargo Brand is Renamed”).

Applicants respectfully traverse the rejection of the claims under 35 U.S.C. § 112, first paragraph. The changes to Claim 1 regarding the input information being inputted based on the displayed merchandise planning and development information in a development period of the new merchandise is supported at least by Figures 1 and 2 and the discussion

related thereto in the specification. In particular, as shown in Figure 3, the development period in which the customer needs investigation period is a sub-period, occurs before the mass production of the merchandise. Further, as shown in Figures 4 and 5, steps SA9, SA10, and SA11 (in which opinion information is inputted) are performed during the planning period prior to the manufacture (and thus the use) of the merchandise. As illustrated in Figures 4 and 5, the opinion information is inputted prior to the finalizing of the design of the product and prior to the manufacturing of the product. Accordingly, Applicants respectfully submit that the rejection of the claims under 35 U.S.C. § 112, first paragraph, is rendered moot by the present amendment to the claims.

Amended Claim 1 is directed to a merchandise planning and development system, comprising: (1) a merchandise planning information notice unit configured to inform many and unspecified customers of merchandise planning and development information relating to planning and/or development of new merchandise in a development period through the Internet; (2) a display unit provided at a side of the customer and configured to display the merchandise planning and development information received from the merchandise planning information notice unit through the Internet, the display unit further configured to display an inquiry input screen and configured to allow the customers to input opinion information not on use of any actual product by the customers, but on the merchandise planning and development information, wherein the opinion information is inputted from the display unit based on the displayed planning and development information in the development period of the new merchandise; (3) an opinion information collecting unit configured to collect the opinion information of the customers inputted from the display unit through the Internet; and (4) a merchandise information notice unit configured to inform the customers of information on merchandise designed according to an analysis of the opinion information, through the

Internet. The changes to Claim 1 are supported by the originally filed specification and do not add new matter.¹

Applicants respectfully submit that the rejection of Claim 1 is rendered moot by the present amendment to that claim.

Regarding the rejection of Claim 1 under 35 U.S.C. § 103(a), the Office Action asserts that the ‘908 patent discloses everything in Claim 1 with the exception of transmission of data via the Internet, and relies on the ‘015 patent to remedy that deficiency.

The ‘908 patent is directed to a customer-based product design module configured to interact with customers, gather information from customers, communicate customer information securely to a vendor or an external third party, construct and transmit new preprogrammed interactions to the customer communication system *in a product*, and analyze and report customer information. In particular, as shown in Figure 2, the ‘908 patent discloses a system in which users of a product may provide feedback information to the product designers while the users are using the product.² In this regard, Applicants note that Figures 24 and 25, and column 32, lines 51-67 relate to the user providing feedback to the developer based on the user’s use of the product. Moreover, Applicants note that the Office Action has cited to column 48, lines 32-42 and column 77, lines 10-15 as disclosing that “the system accepts customer feedback regarding information and improvements on products before product new merchandise is used.”³ Moreover, the “merchandise information notice unit” disclosed by the ‘908 patent informs vendors of information from the users, but does not inform the users of merchandise information.

However, Applicants respectfully submit that the ‘908 patent fails to disclose that the opinion information (not on use of any actual product by the customers, but on the

¹ See, e.g., step SA12 in Figure 4 and page 56, lines 15-23 in the originally filed specification. See also page 41, line 21 to page 42, line 4.

² See ‘908 patent, column 18, lines 23-24, and column 19, lines 28-30.

³ See page 5 of the outstanding Office Action.

merchandise planning and development information) is inputted from the display unit based on the displayed merchandise planning and development information in the development period of the new merchandise, as recited in amended Claim 1. The cited section in column 48 of the ‘908 patent relates to ways that a user directs the design evolution of the products, but all the feedback provided by the user relates to the use of a particular product.⁴ The feedback is not based on displayed information relating to planning and/or development of new merchandise in the development period through the Internet, but relates to the user’s evaluation of an existing product and how that might be improved. For example, Applicants note that Claim 1 of the ‘908 patent is directed to a system for use with the units of a computer product that includes interaction scripts that mediate two-way interaction between each of the users and a corresponding unit of the product via the user interface, each of the interactions groups causing information and questions about use of the unit of the product to be conveyed to the user from the unit of the product and enabling information and questions about use of the unit of the product to be conveyed from the user to the product.

Further, the passage in column 77 of the ‘908 patent refers to systems that are easy and inexpensive to incorporate into prototype products in various stages of development to enable cheap and fast field-testing worldwide, to learn what needs to be fixed before the product is shipped. However, this passage relates to testing of a prototype product after the product has been initially developed and relates to use of the product by a customer.

The ‘051 patent is directed to a system configured to process information to identify product choices within a range of product choices for a user, based on user preferences. Thus, the ‘051 patent discloses a system that attempts to identify appropriate product choices for a user from a predetermined list of existing products.

⁴ See, e.g., ‘908 patent, column 48, line 39.

However, Applicants respectfully submit that the ‘051 patent fails to disclose a merchandise planning information notice unit for informing many and unspecified users of merchandise planning and development information relating to planning and/or development of new merchandise in a development period. The ‘051 patent, on the contrary, is used by a particular user to select among various products. Further, the ‘051 patent fails to disclose a display unit configured to display an inquiry input screen configured to allow customers to input opinion information not on use of any actual product by the customers, but on the planning and development information, wherein the opinion information is inputted from the display unit based on the displayed merchandise planning and development information in the development period of the new merchandise, as recited in Claim 1.

Accordingly, no matter how the teachings of the ‘908 and ‘015 patents are combined, the combination does not teach or suggest a merchandise planning and development system in which the opinion information is inputted from the display unit based on display merchandise planning and development information in the development period of the new merchandise, as recited in amended Claim 1. Accordingly, Applicants respectfully submit that amended Claim 1 (and dependent Claims 2-7) patentably define over any proper combination of the ‘908 and ‘051 patents.

Independent Claims 29, 30, and 55-57 recite limitations analogous to the limitations recited in amended Claim 1. Moreover, Claims 29, 30, and 55-57 have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for reasons analogous to the reasons stated above for the patentability of Claim 1, Applicants respectfully submit that the rejections of Claims 29, 30, and 55-57 (and all similar rejected dependent claims) are rendered moot by the present amendment to the independent claims.

Regarding the rejection of dependent Claims 8-28 and 34-54 under 35 U.S.C. § 103(a), Applicants respectfully submit that the ‘014 patent, the ‘054 patent, and the Palmer

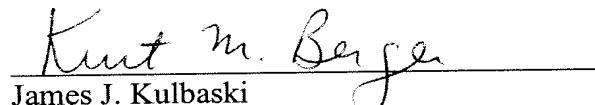
and Anonymous references fail to remedy the deficiencies of the '908 and '051 patents, as discussed above. Accordingly, Applicants respectfully submit that the rejections of dependent Claims 8-28 and 34-54 are rendered moot by the present amendment to independent Claims 1 and 30.

Thus, it is respectfully submitted that independent Claims 1, 29, 30, and 55-57 (and all associated dependent claims) patentably define over any proper combination of the '908 patent, the '051 patent, the '014 patent, the '045 patent, and the Palmer and Anonymous references.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



James J. Kulbaski
Registration No. 34,648
Attorney of Record

Kurt M. Berger, Ph.D.
Registration No. 51,461

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)